

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

NORMAN L. MILLER,

Plaintiff,

v.

T.H.E. INSURANCE COMPANY,

Defendant.

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Case No. 06-0400-CV-W-RED

ORDER

Now before the Court is Defendant's Motion to Dismiss (Doc. 10).

Plaintiff Norman L. Miller ("Miller"), *pro se*, instituted this action against Defendant T.H.E. Insurance Company to recover for injuries he received on August 18, 2005, at the Missouri State Fair. According to Miller, he was injured when the canopy under which he was sitting collapsed, striking him in the head and neck and knocking him unconscious. Miller is seeking \$1 million in damages from T.H.E. Insurance Company as the insurer for Lowery Amusements, alleged owner of the canopy.

Under Missouri law, an individual may not pursue a claim directly against an insurer to recover for injuries sustained from the alleged tort of the insured. *Haines v. Harrison*, 211 S.W.2d 489, 492 (Mo.1948) ("No action can be maintained in this state against the insurer to recover damages for the tort of the insured if the insured is living."). Consequently, Plaintiff's complaint against T.H.E. Insurance Company is improper.

Accordingly, Defendant's Motion to Dismiss (Doc. 10) is hereby **GRANTED**. The above-styled case is hereby **DISMISSED without prejudice**, with each party to bear its own costs.

IT IS SO ORDERED.

DATE: November 29, 2006

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT